

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2007 Legislative Session

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HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-2901A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. There has been no change to the text of the rule change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the January 4, 2006 Idaho Administrative Bulletin, Vol. 06-1, pages 67 through 69.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact attributable to this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Captain Lamont Johnston (208) 884-7221.

DATED this 15th day of May, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 3, 2005.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-2901A, Idaho Code.

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO STATE POLICE
The Motor Carrier Rules

Docket No. 11-1301-0601
PENDING RULE

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than February 22, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Federal Carrier Motor Carrier Safety agency issued a final rule August 25, 2005 revising CFR 395 "Hours of Service for Drivers". The revised rule goes into effect October 1, 2005. The Idaho State Police receives federal grant MCSAP funds that require it to enforce this rule. Failure to enforce this rule will result in the loss of those funds. Update the incorporated reference of 49 CFR 395 to the August 25, 2005 version.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee associated with this rule change.

FISCAL IMPACT: There is no negative fiscal impact attributable to this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is required due to revisions to the governing federal Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Captain Lamont Johnston at (208) 884-7221.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before February 22, 2006.

DATED this 10th day of November, 2005.

Colonel R. Dan Charboneau, Director
Idaho State Police
700 S. Stratford
P. O. Box 700, Meridian, ID 83680-0700
208-884-7003 Fax 208-884-7090

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IDAHO STATE POLICE
The Motor Carrier Rules

Docket No. 11-1301-0601
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under this Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-20-04)

02. Obligation of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- a.** Part 356. Authority to Serve a Particular Section - Construction. (3-20-04)
- b.** Part 365. How to Apply for Operating Authority. (3-20-04)
- c.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- e.** Part 385. Safety Fitness Standards. (4-5-00)
- f.** Part 387. Financial Responsibility. (3-20-04)
- g.** Part 388. Cooperative Agreements with States. (4-5-00)
- h.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)

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- i. Part 391. Qualifications of Drivers. (4-5-00)
- j. Part 392. Driving of Motor Vehicles. (4-5-00)
- k. Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l. Part 395. Hours of Service of Drivers. (4-5-00)
- m. Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- o. Part 398. Transportation of Migrant Workers. (4-5-00)
- p. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 394, and 396 through 399 published in the Code of Federal Regulations volumes dated October 1, 2002, and Parts 393 ~~and 395~~ published in the Code of Federal Regulations volumes dated January 4, 2004, and Part 395 published in the Code of Federal Regulations volume dated August 25, 2005. ~~(3-20-04)~~(10-3-05)T

05. Availability of Incorporated Documents. The 49 CFR's can be found at www.fmcsa.dot.gov or copies may be viewed at the central office of the Idaho State Police. (3-20-04)

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-2901A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. There has been no change to the text of the rule change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 42 through 44.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no negative fiscal impact attributable to this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Captain Lamont Johnston (208) 884-7221.

DATED this 31st day of July, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-2901A, Idaho Code.

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IDAHO STATE POLICE
The Motor Carrier Rules

Docket No. 11-1301-0602
PENDING RULE

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 19, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

It is an unneeded financial and personnel resource burden to Idaho carriers between 10,001 pounds and 26,000 pounds to abide by some administrative parts of the Federal Motor Carrier Safety Agency (FMCSA) regulations. This change in rule exempts them from those CFR parts.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: the rule change confers a benefit on those subject to these rules.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no negative fiscal impact on the state general fund resulting from this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule change eases rather than increases regulation for certain motor carriers without imposing additional burden on any motor carrier.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Capt. Lamont Johnston at (208) 884-7192.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2006.

DATED this 11th day of May, 2006.

Colonel R. Dan Charboneau, Director
Idaho State Police
700 S. Stratford
P. O. Box 700, Meridian, ID 83680-0700
208-884-7003 Fax 208-884-7090

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO STATE POLICE
The Motor Carrier Rules

Docket No. 11-1301-0602
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (4-1-06)T

a. All interstate and foreign carriers and ~~all~~ intrastate carriers, except those carriers listed in Subsection 019.01.b., subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). ~~The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under this Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388.~~ (3-20-04)(4-1-06)T

b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (4-1-06)T

c. The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (4-1-06)T

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all

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intrastate carriers subject to these Rules at IDAPA 11.13.01, “The Motor Carrier Rules,” Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- a. Part 356. Authority to Serve a Particular Section - Construction. (3-20-04)
- b. Part 365. How to Apply for Operating Authority. (3-20-04)
- c. Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d. Part 383. Commercial Driver’s License Standards; Requirements and Penalties. (4-5-00)
- e. Part 385. Safety Fitness Standards. (4-5-00)
- f. Part 387. Financial Responsibility. (3-20-04)
- g. Part 388. Cooperative Agreements with States. (4-5-00)
- h. Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- i. Part 391. Qualifications of Drivers. (4-5-00)
- j. Part 392. Driving of Motor Vehicles. (4-5-00)
- k. Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l. Part 395. Hours of Service of Drivers. (4-5-00)
- m. Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- o. Part 398. Transportation of Migrant Workers. (4-5-00)
- p. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version of Federal Regulations Adopted. The federal regulations adopted by

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PENDING RULE

reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 394, and 396 through 399 published in the Code of Federal Regulations volumes dated October 1, 2002, and Part 393 published in the Code of Federal Regulations volumes dated January 4, 2004, and Part 395 published in the Code of Federal Regulations volume dated August 25, 2005. (10-3-05)T

05. Availability of Incorporated Documents. The 49 CFR's can be found at www.fmcsa.dot.gov or copies may be viewed at the central office of the Idaho State Police. (3-20-04)

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 81 through 90.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Randy Nilson at (208) 334-7530.

DATED this September 5, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be

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STATE TAX COMMISSION
Idaho Motor Fuels Tax Administrative Rules**Docket No. 35-0105-0601**
PENDING RULE

scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 105: Amend Motor Fuels Rule 105 to clarify that: 1) Only gaseous fuels delivered into the supply tank of a registered motor vehicle should be reported as taxable gallons on the licenses gaseous fuels distributor's report. 2) Motor vehicles are registered in Idaho, not licensed. 3) All untaxed gaseous fuels delivered into the supply tank of motor vehicles must be accounted for by a licensed gaseous fuels distributor.

Rule 270: Amend Motor Fuels Rule 270 to include other types of refunds granted in Rule 290 that would exclude consumers from using the proration method in Subsection 06.a. and the multi storage tank method in 06.b. of this rule. The reason these consumers are excluded is because they are required to account for the tax-paid gallons placed in the supply tank of the motor vehicle. To clarify that motor vehicles are registered in Idaho, not licensed.

Rule 290: Amend Motor Fuels Rule 290 to rename "Statutory miles per gallon" to "Presumed miles per gallon" in subsection 01.d. The miles per gallons for motor vehicles with a weight of 6,000 lbs. or less needs to be lowered to reflect the actual miles per gallon this weight class achieves under normal working conditions.

Rule 292: Amend Motor Fuels Rule 292 to rename statutory MPG to presumed MPG to match the name in Rule 290. To clarify that motor vehicles are registered in Idaho, not licensed.

Rule 400: Amend Motor Fuels Rule 400 to add a class of motor vehicles to this rule that is currently required to obtain an IFTA license.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy Nilson, at (208) 334-7530.

Anyone may submit written comments regarding this proposed rulemaking. All written comments

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STATE TAX COMMISSION
Idaho Motor Fuels Tax Administrative Rules

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PENDING RULE

must be directed to the undersigned and must be delivered on or before August 23, 2006.

DATED this 29th day of June, 2006.

Randy Nilson, Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

105. LICENSED GASEOUS FUELS DISTRIBUTOR'S REPORTS (RULE 105).

01. Monthly Reports. Every licensed gaseous fuels distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (7-1-99)

a. The total taxable gallons of gaseous fuels ~~sold~~ delivered into the supply tank of registered motor vehicles; (~~4-5-00~~)()

b. The taxable gallons after deduction of a two percent (2%) allowance. See Rule 140 of these rules; (4-5-00)

c. The tax computation; (7-1-99)

d. The bad debt amount, if any. See Rule 140 of these rules; (4-5-00)

e. The gaseous fuels permit fees (Attach to the report the yellow copy of the receipt for each gaseous fuels permit sold during that month); and (4-5-00)

f. The net tax due; (4-5-00)

g. A receipt schedule reporting the total number of taxable gallons of gaseous fuels sold must be attached to the distributor's report. (4-5-00)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates together with the payment of any tax, annual gaseous fuels permit fees, penalty or interest due. See Rule 010 of these rules relating

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STATE TAX COMMISSION Idaho Motor Fuels Tax Administrative Rules

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PENDING RULE

to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

03. Failure to Collect and Remit Tax and Permit Fees. Any gaseous fuels distributor required to collect the tax or permit fee imposed by Section 63-2424, Idaho Code, who fails to collect such tax or permit fee, or any gaseous fuels distributor required to remit the tax or permit fee pursuant to this section who fails to make such remittance shall be liable to the State Tax Commission for the amount of tax or permit fee not collected or remitted plus any applicable penalty or interest. The State Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. (7-1-99)

04. Receipt of Gaseous Fuels. The special fuels tax is not imposed on gaseous fuels when the fuels are received in Idaho. (4-5-00)

05. Gaseous Fuels. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the supply tank of a ~~licensed~~ registered, or required to be ~~licensed~~ registered, motor vehicle. (4-5-00)()

06. Annual Fees for Gaseous Fuels Permits. Persons operating vehicles powered by gaseous fuels may pay an annual fee for a gaseous fuels permit instead of paying the special fuel taxes at the time propane or natural gas is purchased. Gaseous fuels distributors who sell these permits shall issue a permit that will be in the form of a decal to be displayed in a conspicuous spot visible from the outside of the permitted vehicle. The fees for gaseous fuels permits are based on the gross vehicle weight of the vehicles and are set by Rule 115 of these rules as is mandated by Section 63-2424(2), Idaho Code. The gaseous fuels permit is valid for the annual permit period of July 1 through June 30 of the following year. The annual permit period displayed on the decal will be the year in which the decal expires. (4-5-00)

07. Documentation of Untaxed ~~Sales of~~ Gaseous Fuels Delivered into Motor Vehicles. Gaseous fuels delivered into the fuel supply tank of a ~~licensed~~ registered, or required to be ~~licensed~~ registered, motor vehicle are taxable except for: (7-1-99)()

a. Government. Gaseous fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the licensed distributor must record on the document of sale, the name of the governmental entity, the license or identification number, and the type of vehicle. (7-1-99)

b. Gaseous Fuels Decal. Gaseous fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Fuels Decal are exempt from tax. For the exempt status to be valid, the purchaser's name, address, vehicle license number, and the words "gaseous fuels decal" must be recorded on the sales document. (4-5-00)

08. Completion of Gaseous Fuels Receipt Book(s). The following information is required to be recorded by a gaseous fuels distributor in his gaseous fuels receipt book for each gaseous fuels permit (decal) sold: (4-5-00)

a. The date; (4-5-00)

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- b.** The amount; (4-5-00)
- c.** One (1) of the following weight classes: (4-5-00)
 - i.** Zero - eight thousand pounds (0 - 8,000 lbs.); or (4-5-00)
 - ii.** Eight thousand one - sixteen thousand pounds (8,001 - 16,000 lbs.); or (4-5-00)
 - iii.** Sixteen thousand one - twenty-six thousand pounds (16,001 - 26,000 lbs.); or (4-5-00)
 - iv.** Twenty-six thousand one pounds (26,001 lbs.) and over. (4-5-00)
- d.** The current month; (4-5-00)
- e.** The annual permit period; (4-5-00)
- f.** The customer's name and vehicle license plate number; (4-5-00)
- g.** The name and license number of the gaseous fuels distributor who is selling the permit; and (4-5-00)
- h.** The signature of the salesperson. (4-5-00)

09. Annual Reconciliation of Gaseous Fuels Receipt Books and Decals. A distributor who sells gaseous fuels permits must reconcile its account with the State Tax Commission for the annual permit period ending June 30, by July 31, of the same year. Distributors may begin ordering decals and receipt books in May for the upcoming annual permit period. The following is required to be received by the State Tax Commission for reconciliation: (4-5-00)

- a.** All unused/unsold gaseous fuels decals; (4-5-00)
- b.** All voided receipts (white and yellow copies) not previously submitted with the distributor report; (4-5-00)
- c.** All receipt books (pink copies must be intact); and (4-5-00)
- d.** A completed gaseous fuels reconciliation form which includes: (4-5-00)
 - i.** The number of decals ordered for the annual permit period; (4-5-00)
 - ii.** The number of decals sold for the annual permit period; (4-5-00)
 - iii.** The balance of decals at the end of the annual permit period; and (4-5-00)

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iv. The number, if any, of decals lost or destroyed. If decals are lost or destroyed, a statement describing the circumstances of the loss or destruction must accompany the distributor's gaseous fuels permit reconciliation. (4-5-00)

10. Assessment for Unaccounted for Decals. Two hundred and eight dollars (\$208) will be assessed for each decal not accounted for during the annual reconciliation, unless there is clear and convincing evidence the decal was destroyed or mutilated. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

270. REFUND CLAIMS -- DOCUMENTATION (RULE 270).

01. Refunds to Consumers. Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double-faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following, in addition to the requirements outlined above: (4-11-06)

- a. A preprinted identification number; (4-11-06)
- b. Name and address of seller; (7-1-98)
- c. Name of purchaser; (7-1-98)
- d. Date of delivery; (7-1-98)
- e. Type of motor fuel; (7-1-98)
- f. Gallons invoiced; (7-1-98)
- g. Price per gallon; (7-1-98)
- h. At least one (1) of the following to establish that tax has been charged: (7-1-98)
 - i. The amount of Idaho state fuels tax; (7-1-98)
 - ii. The rate of Idaho state fuels tax; or (7-1-98)
 - iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

02. Indian-Owned Retail Outlet. Motor fuels purchased from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-11-06)

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03. Corrected Invoices. No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided and retained by the seller for at least three (3) years from the date issued. (7-1-98)

04. Invoice Retention. The original invoices required by Subsection 270.01 of this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. (7-1-98)

05. Refund Documents. For refund claims under Section 63-2410(5)(c), Idaho Code, an original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. (7-1-98)

06. Records Required for Motor Fuels Tax Refunds. Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both taxable and nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax-paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (4-11-06)

a. Use of Fuel from a Single Storage Tank. Idaho tax-paid fuel (other than fuel purchased by persons who operate motor vehicles that are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 290 and Rule 292 of these rules) purchased and delivered into a single bulk storage tank and withdrawn for both nontaxable and taxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty-five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless ~~another~~ an alternate percentage is requested by the taxpayer and authorized by the State Tax Commission. The request shall itemize anticipated uses by type of equipment based on previously experienced use. The State Tax Commission will refund taxes paid on the percentage of taxed fuel presumed to be exempt. If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the fuel purchases on which tax was paid must be retained to support each refund claim. The proration or another percentage granted by this paragraph cannot be used if you have separate storage tanks for undyed diesel and dyed diesel. (~~4-11-06~~)()

b. Use of Fuel from Multiple Storage Tanks. When separate bulk storage tanks are maintained for both exempt and taxable uses, the seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. Detailed withdrawal records will only be required if fuel is ~~used~~ purchased by persons who operate motor vehicles that

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are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 290 and Rule 292 of these rules. All fuel invoices must be retained as required by Subsection 270.03 of this rule. Exempt fuel may not be used in motor vehicles ~~licensed~~ registered or required to be ~~licensed~~ registered.
(3-20-04)()

c. Use of Fuel for Other Than Bulk Storage. Fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than ~~licensed~~ registered motor vehicles, must be identified on the purchase invoice. No other records will be required.
(7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

290. RECORDS REQUIRED FOR INTRASTATE SPECIAL FUELS USERS CLAIMING REFUNDS FOR NONTAXABLE SPECIAL FUELS USED IN MOTOR VEHICLES (RULE 290.)

01. **Refund Claims, Required Records.** Special fuel users, except IFTA licensees, must file a Form 75 with the relevant supplemental worksheet to claim a fuels tax refund. The following information is required to qualify for a refund except for claims based only on the power take-off allowances provided for in Rule 292 of these rules. (4-5-00)

a. Total miles. The total miles traveled should be included for motor vehicles which have nontaxable uses of special fuels. Special fuel users who qualify to use one of the “Standard MPGs” found in Subsection 290.02 need only record and report Idaho taxable miles. (4-5-00)

b. Total fuel. The total number of gallons of fuel delivered into the supply tanks of the motor vehicles should be included for motor vehicles which have nontaxable uses of special fuels. The total miles figure and the total fuel figure must be for the same vehicles. (7-1-98)

c. Actual miles per gallon. The miles per gallon shall be computed by dividing gallons determined according to Subsection 290.01.b. into the number of miles determined according to Subsection 290.01.a. The computation of fleet miles per gallon should be carried to three (3) decimal places and rounded to two (2) decimal places. Example: $4.514 = 4.51$ and $4.515 = 4.52$. (4-5-00)

d. ~~Statutory~~ Presumed miles per gallon. In the event that the claimant fails to keep sufficiently detailed records showing the number of miles actually operated per gallon of special fuel consumed, it shall be presumed that one (1) gallon of special fuel was consumed for every:
(4-5-00)()

i. Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)

ii. Five and one-half (5 1/2) miles traveled by vehicles from twenty-six thousand one

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(26,001) to forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)

iii. Seven (7) miles traveled by vehicles from twelve thousand one (12,001) to twenty-six thousand (26,000) pounds gross registered vehicle weight; or (7-1-98)

iv. Ten (10) miles traveled by vehicles ~~from six thousand one (6,001) to~~ twelve thousand (12,000) pounds or less gross registered vehicle weight; ~~or.~~ (7-1-98)

v. ~~Sixteen (16) miles traveled by vehicles six thousand (6,000) pounds or less gross registered vehicle weight.~~ (7-1-98)

e. The total taxable miles traveled in Idaho. Only taxable miles traveled in Idaho by the motor vehicles which have nontaxable uses of special fuels should be included. Taxable miles are miles driven on any road that is open to the use of the public and maintained by a governmental entity. Such roads may be constructed using concrete, asphalt, gravel, composition, dirt, or other surfaces. (7-1-98)

f. The number of gallons of special fuels consumed in Idaho. The gallons consumed in Idaho shall be computed by dividing the miles per gallon determined according to Subsection 290.01.c. and 290.01.d. into the total taxable miles in Idaho according to Subsection 290.01.e. (4-5-00)

02. Alternative Refund Calculation for Special Fuels Users Engaged in Certain Industries. A special rule may be applied for motor vehicles, except IFTA licensees, that use special fuels and accrue both taxable and nontaxable miles. Operators of motor vehicles that use special fuels, except those licensed under IFTA, may, instead of using the computations provided in Subsections 290.01.c. and 290.01.d., presume that when engaged in operations in the following industries and accruing taxable miles in Idaho, that such motor vehicles consume fuel at the following rates:

Logging	4.3 MPG
Agricultural	4.5 MPG
Sand, gravel & rock hauling	4.0 MPG
Construction	4.4 MPG

(4-5-00)

03. Actual MPG Calculation. If an operator has reason to believe the standard on-road miles per gallon (MPG) in Subsection 290.02. is not an accurate reflection of his specific operation, the operator can calculate an actual MPG using the computations provided in Subsection 290.01.c. or ~~statutory~~ presumed MPG provided in Subsection 290.01.d. (4-5-00)()

04. Claims Subject to Review or Audit. All fuels tax refund claims are subject to review or audit by the State Tax Commission. (4-5-00)

291. (RESERVED).

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292. CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES. (RULE 292).

01. Fuel Records Required for Refund Claims. Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules. (4-5-00)

02. Nontaxable Miles Defined. Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 130 of these rules regarding application of Idaho Sales and Use Taxes. (4-6-05)

03. Additional Nontaxable Roadways. Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the "standard MPG" for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway. (3-15-02)

04. Calculation. Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the ~~statutory~~ presumed MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-11-06)(____)

05. Power Take-Off and Auxiliary Engine Allowances (Allowances). Power-take-off (PTO) allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline-powered vehicles. (4-5-00)

a. Standard Allowances for Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle-mounted cement mixer or off-loading product. (4-6-05)

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b. Standard Allowances for Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the ~~licensed~~ registered motor vehicle. No claim for gasoline is allowed when gasoline is used by the ~~licensed~~ registered motor vehicle's main engine even to operate the motor vehicle's PTO unit. (3-15-02)()

c. Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: (4-5-00)

i. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(4-11-06)

ii. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage compaction	25%	x	Gallons consumed

(3-15-02)

06. Nonstandard Allowances. A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. Taxpayers must send requests for approval to:

FUELS TAX POLICY
IDAHO STATE TAX COMMISSION
P. O. BOX 36
BOISE, ID 83722-0410

The Idaho State Tax Commission may request additional information or documentation as needed in order to make a determination on the request. (4-6-05)

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07. Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees. The nontaxable gallons of fuel claimed by non-IFTA licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to mileage and fuel consumption (MPG) information. (4-11-06)

08. IFTA Licensees. Qualifying for Power Take-Off (PTO) And Auxiliary Engine Allowances (Allowances). Allowances listed in Subsection 292.05 of this rule or established as provided in Subsection 292.06 of this rule may be granted for IFTA licensees by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet. (4-6-05)

a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, recompute the fleet miles per gallon. Apply the new fleet miles per gallon to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. (4-5-00)

b. Additionally, a copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how allowance was calculated must be included as an attachment to the Form 75. All refund claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. (4-5-00)

c. IFTA licensees that used an assumed MPG when preparing their original IFTA return may not claim any additional refund. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

400. IFTA LICENSING AND SPECIAL FUELS PERMITTING REQUIREMENTS FOR MOTOR VEHICLES OVER TWENTY-SIX THOUSAND POUNDS MAXIMUM GROSS WEIGHT (RULE 400).

The following rules relate to the special fuels tax licensing system provided in Sections 63-2438 through 63-2440, Idaho Code, inclusive and, where expressly stated, supplements the requirements of IFTA. (7-1-98)

01. In General. It is unlawful for any person to operate a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3)

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or more axles regardless of weight, that uses special fuels as defined in Section 63-2401, Idaho Code, on the highways of this state without having obtained one (1) of the following:

~~(4-11-06)~~(____)

a. A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code. (7-1-98)

b. A temporary permit from the Idaho Transportation Department. (3-15-02)

c. An IFTA license. (7-1-98)

d. In the case of vehicles powered by gaseous fuels, a gaseous fuel permit as provided by Section 63-2424, Idaho Code. (7-1-98)

02. Federal or In-State Governmental Vehicles. Motor vehicles owned or leased and operated by the federal government or the state of Idaho or their instrumentalities or political subdivisions are exempt from these requirements. (3-15-02)

03. Out-of-State Governmental Vehicles. Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (7-1-98)

04. Temporary Permits. Any person who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, shall secure a temporary permit from the Idaho Transportation Department in the manner provided and required by that department. ~~(3-15-02)~~(____)

05. Failure to Obtain an IFTA License or a Temporary Permit. Operation of a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code, an IFTA license or an Idaho temporary permit is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Sections 63-2434 and 63-3065, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle required to display, but failing to display, either an IFTA license or a temporary permit. ~~(3-15-02)~~(____)

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IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.07 - RULES GOVERNING TITLING OF SALVAGE, SPECIALLY CONSTRUCTED, AND RECONSTRUCTED MOTOR VEHICLES

DOCKET NO. 39-0207-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201, 49-507, and 49-525, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Proposed changes bring this rule into conformity and compliance with code changes in 2006 HB 727, effective July 1, 2006. The bill mandates that all vehicles that have been declared a total loss enter the salvage program and be issued a salvage certificate of ownership, establishes criteria to require a branded certificate for repaired or reconstructed vehicles, and includes a requirement for dealers to disclose title brands to purchasers, protecting consumers by identifying that the vehicle was previously declared a salvage vehicle.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 201 through 207.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

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IDAHO TRANSPORTATION DEPARTMENT Titling of Salvage and Special Motor Vehicles

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AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. This action is authorized pursuant to Section(s) 49-2001, 49-507, and 49-525, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rule-making:

Proposed changes bring this rule into conformity and compliance with code changes in 2006 HB 727, effective July 1, 2006. The bill mandates that all vehicles that have been declared a total loss enter the salvage program and be issued a salvage certificate of ownership, establishes criteria to require a branded certificate for repaired or reconstructed vehicles, and includes a requirement for dealers to disclose title brands to purchasers, protecting consumers by identifying that the vehicle was previously declared a salvage vehicle.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with code which will also confer a benefit on the public purchasing previously owned vehicles and protect the public safety.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There are no fees or charges being imposed through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed change is required for compliance with Idaho Code and immediate implementation will protect Idaho citizens purchasing previously owned vehicles.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

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Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2006.

DATED this 4th day of August, 2006.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone - 208-334-8810 / FAX - 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

~~*This rule governs the classification and titling of motor vehicles described as reconstructed or repaired, salvage, and specially constructed in Section 49-123 (2)(i), (j) and (k), Idaho Code.*~~
(11-1-94)

01. Title. These rules shall be cited as IDAPA 39.02.07 “Rules Governing Titling of Salvage, Specially Constructed, and Reconstructed Motor Vehicles.” (7-1-06)T

02. Scope. These rules identify requirements for the classification and titling of motor vehicles defined as reconstructed or repaired, salvage, or specially constructed, pursuant to Section 49-123(2)(l)(m) and (n), Idaho Code. (7-1-06)T

002. WRITTEN INTERPRETATIONS.

This agency does not rely on written interpretations for these rules. (7-1-06)T

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 04.11.01. “Idaho Rules of Administrative Procedure of the Attorney General.” (7-1-06)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-06)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office for motor vehicle investigations in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (7-1-06)T

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IDAHO TRANSPORTATION DEPARTMENT Titling of Salvage and Special Motor Vehicles

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PENDING RULE

02. Office Hours. Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (7-1-06)T

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8663 or by fax at 208-334-8658. Requests will be directed to the appropriate inspector by location. (7-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-06)T

0027. -- 009. (RESERVED).

010. DEFINITIONS.

01. Major Component Parts. The six (6) major component parts which are commonly used to reconstruct a motor vehicle shall be defined solely for reconstruction purposes as follows. (For the purpose of determining major component part damage that requires repair or replacement on salvage vehicles, an inspector may disregard minor damage to cosmetic exterior trim and sheet metal body panels that do not affect the structural integrity of the vehicle.)

~~(11-1-94)~~(7-1-06)T

a. Front/Front End Assembly/Front Clip/Nose Section. An integrated section of body structural component parts located forward of the firewall, i.e. front fender apron, front side member, front suspension cross member, hood lock brace, front cross member, radiator side support (side baffle), radiator upper support, hood and other such parts that may be pertinent to this section and not including a frame section. (1-1-90)

b. Body/Center Passenger Area. The center structure, either of a unibody or frame-type passenger vehicle, consisting of a unit of sheet metal and structural components that extends from the firewall to the back of the rear seat or to the factory seam separating the rear section or the centerline of the rear wheels, i.e. cowl panel, dash panel, floor pans, center side body panels, side rails, rocker panels, and other such component parts that may be pertinent to this section. This major component shall not include the top/roof section of the passenger compartment. (11-1-94)

c. Top/Roof of Passenger Compartment. The top/roof section consisting of sheet metal severing the vehicle joining at the windshield, side and rear window posts, i.e. center pillar upper outer reinforcement, roof side inner rail, roof side outer rail, roof drip channel, roof side inner panel and other such component parts that may be pertinent to this section. (11-1-94)

d. Rear/Rear Clip. The complete rear sheet metal section and structural components formed by severing the vehicle across the floor behind the rear seat, or at the factory seam separating the center passenger section or through the centerline of the rear wheels, i.e. upper back panel, luggage compartment door hinge arm, quarter wheel house panel, quarter panel, lower back panel, rear valance panel, rear floor pan, rear seat cushion support brace, rear floor side panel, rear deck lid, rear floor no. 1 cross member, and other such component parts that may be pertinent to this section. (11-1-94)

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e. **Frame.** The heavy metal structure that supports the auto body and other external component parts on body over-frame constructed vehicles only. For the purposes of this section, damage that is evident between the centerline of the front wheels and the centerline of the rear wheels will be considered major component damage to the frame. Damage to the ends of the frame, front and rear will be considered as minor damage, easily repaired and not considered as major component damage. The typical bolt-on stub frame used on a semi-unitized vehicle will not be considered a separate major component part. (1-1-90)

f. **Cab.** The passenger compartment of a common truck or pickup truck. It is a unit of sheet metal and structural components including the top/roof and the cowl which may or may not include glass, instrumentation, steering column and seat. (11-1-94)

02. Market Value. The market value is the value of the vehicle, prior to the vehicle receiving damage from the incident that caused the vehicle to be declared salvage. This value will be determined by reference to an official used car guide. For purpose of the rule, Known Market Value, Fair Market Value, Retail Market Value, Actual Cash Value, and Market Value are the same and will be referred to as "Market Value". ~~(7-1-96)~~(7-1-06)T

03. Primary Damage. Local damage that occurs at the point of impact on the vehicle. (7-1-90)

04. Secondary Damage. Damage that occurs due to misplaced energy that causes stresses in suspension and/or body dimensions at areas other than the primary impact zone. If the secondary damage area can be repaired or replaced within a six (6) hour period, as indicated in a recognized collision estimating guide, the damage will not be counted as a section or major component part while inspecting for branding considerations. (7-1-90)

05. Significant Parts. For the purpose of this rule, the significant parts are all replaced parts that will require a bill of sale or traceable invoice from the former owner identifying the part by vehicle identification number and identifying the seller by name and address. These parts are the front fenders, hood, doors, bumpers, quarter panels, decklid, tailgate or hatchback (whichever is present). (7-1-90)

(BREAK IN CONTINUITY OF SECTIONS)

200. RECONSTRUCTED VEHICLES OR REPAIRED VEHICLES.

01. Reconstructed or Repaired Vehicle. A reconstructed or repaired vehicle, as defined by Section 49-123 (2)(f), Idaho Code, is: ~~(7-1-96)~~(7-1-06)T

a. ~~All~~ Every "Salvage Vehicles" that ~~have~~ has been rebuilt, reconstructed, repaired, or restored in compliance with Chapter 9, Title 49, Idaho Code, as regulated by Sections 49-524 and 49-525, Idaho Code, ~~which had a known market value in excess of six thousand dollars (\$6,000) prior to damage;~~ or ~~(7-1-96)~~(7-1-06)T

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b. ~~All~~ Every vehicles that ~~are five (5) years old or less~~ is coming into Idaho from another jurisdiction showing evidence of a total loss payoff such as a bill of sale from an insurance company, salvage bill of sale or other documentation indicating that the vehicle may have been severely damaged. These vehicles may not be operated on Idaho highways until rebuilt, reconstructed, repaired, or restored in compliance with Chapter 9, Title 49, Idaho Code, and shall be considered salvage. They shall be issued an Idaho Salvage Certificate and if they are five (5) years old or less, or had a known market value in excess of six-thousand dollars (\$6,000) prior to damage, they must be inspected prior to repair. If these any vehicles are described in Subsection 200.01 is received by a "salvage pool", a salvage certificate of title must be issued, prior to sale; or ~~(7-1-96)~~(7-1-06)T

c. All other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles including vehicles meeting the definition of a "Street Rod" in 49-120(26), Idaho Code, will receive a "Reconstructed Vehicle" title brand but do not require a "Reconstructed Vehicle" decal. Large trucks rebuilt by the use of a glider kit are not considered to be "Reconstructed Vehicles" under this rule. (11-1-94)

02. Reconstructed or Repaired Vehicle, Exemptions. Motorcycles, motor homes, trailers, all-terrain vehicles and snowmachines are not considered to be reconstructed or repaired vehicles under this rule, regardless of damage, and do not require the issuance of a salvage certificate of title. (11-1-94)

03. Title Application Instructions For Vehicles More Than Five Years Old and Having a Known Market Value of Six Thousand Dollars or Less. ~~(7-1-96)~~(7-1-06)T

a. The applicant must provide a written affirmation which includes the vehicle information, vehicle identification numbers, salvage date, and the work done personally by the owner or supervised by the owner to restore the vehicle to the operating condition that existed prior to the event causing the vehicle to be salvaged. (7-1-06)T

b. In the event that the applicant did not personally repair the vehicle or supervise its repair, but another party performed the repairs, the applicant shall certify to the best of his knowledge the name of the party that did repair the vehicle or personally supervised its repair. This certification shall be made on a salvage vehicle affidavit. (7-1-06)T

c. In the event that repairs were not necessary to bring the vehicle to operating condition pursuant to Chapter 9, Title 49, Idaho Code, the applicant shall certify this on a salvage vehicle affidavit. (7-1-06)T

d. The applicant must sign an indemnifying affidavit agreeing to defend the title in all legal disputes arising out of his possession of the title to the vehicle, and attesting to the fact that all information contained in the affidavit or its attachments are true and correct. (7-1-06)T

04. Title Application Instructions for Vehicles With an Age of Five Years or Less or Having a Known Market Value in Excess of Six Thousand Dollars. (7-1-06)T

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a. The applicant must provide proof of ownership for all significant parts used in the construction. Documentation requirements are as follows: The title or titles to the vehicles that were used in the construction; the frame requires the title properly released by the legal owner; and traceable bills of sale or invoices from new or used parts outlets or bills of sale from previous legal owners for all major component and significant parts, except the frame, are acceptable.

~~(1-1-90)~~(7-1-06)T

b. When the vehicle is in operating condition and in compliance with Chapter 9, Title 49, Idaho Code, the applicant must submit the vehicle for inspection. The inspector will inspect the VIN(s) and determine if the VIN(s) on the vehicle are properly represented by available titles and/or bills of sale.

(11-1-94)

c. The model year and make of the vehicle will be determined in order of priority as follows: Previous primary ownership documents, i.e. certificate of title or salvage certificate to the body; visual identification; or use the frame identification number.

(1-1-90)

d. The inspector shall: Assist in preparing an indemnifying affidavit in conjunction with the possessor of the vehicle; And advise the affiant that it is his obligation to insure that the vehicle is maintained in compliance with Chapter 9, Title 49, Idaho Code and that he is agreeing to defend the vehicle in all legal disputes arising out of his possession of the vehicle.

(11-1-94)

e. The inspector or county assessor's deputy shall assist the applicant in preparing an application for title.

(11-1-94)

045. Inspection Fee. The inspector will charge a fee of twenty-five dollars (\$25) for the inspection and preparation of the documents. If a VIN assignment is made, the fee required by Section 49-202(2)(~~j~~), Idaho Code, will also be charged.

~~(11-1-94)~~(7-1-06)T

056. Idaho Title Branded. The new Idaho title produced will be branded "RECONSTRUCTED VEHICLE" or "REPAIRED VEHICLE" depending on the severity of the damage. Such notation will remain on the title on all subsequent transfers of the title.

(11-1-94)

067. Repaired Vehicle Branded. If the vehicle is a "salvage vehicle", as defined by Section 49-123(2)(~~j~~m), Idaho Code, and the inspector determines that one (1) major component part has damage and requires repair or replacement, a second or final inspection is required for the purpose of attaching a "REPAIRED VEHICLE" decal, verification of ownership of all major components and significant parts and collection of the fee required by Section 49-525(3)(b), Idaho Code. The "REPAIRED VEHICLE" decal shall be attached ~~to~~ in the vicinity of the driver's door jamb/"B" post, and must be attached prior to application for title.

~~(11-1-94)~~(7-1-06)T

078. Reconstructed Vehicle Branded. If the vehicle is a "salvage vehicle", as defined by Section 49-123(2)(~~j~~m), Idaho Code, and the inspector determines that two (2) or more major component parts are damaged and require repair or replacement, or the vehicle sustained "Flood Damage" as shown in the ownership documentation or insurance adjuster's report, a second or final inspection is required for the purpose of attaching a "RECONSTRUCTED VEHICLE" decal, verification of ownership of all major components and significant parts and collection of the fee required by Section 49-525 3(b), Idaho Code. The "RECONSTRUCTED VEHICLE"

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decal shall be attached ~~to~~ in the vicinity of the driver's door jamb/"B" post, and must be attached prior to application for title. ~~(11-1-94)(7-1-06)T~~

089. Salvage Vehicle Damaged Out-of-State. If a vehicle that is titled in Idaho is damaged in another state or jurisdiction to the extent that the vehicle becomes a "salvage vehicle" as defined by Section 49-123(2)(~~jm~~), Idaho Code, and the vehicle is not going to be returned to Idaho, the owner or insurer must upon determining the vehicle to be salvage, notify the purchaser and the department in writing of the salvage status and that if this vehicle returns to Idaho, the vehicle and the title will be branded "RECONSTRUCTED VEHICLE" or "REPAIRED VEHICLE," as appropriate. If the vehicle has been repaired prior to major component inspection by an authorized vehicle inspector, the vehicle and the certificate of title shall be marked "RECONSTRUCTED VEHICLE". ~~In this situation, no salvage certificate of title must be issued, but the department will mark its records appropriately.~~ ~~(11-1-94)(7-1-06)T~~

~~**09. Minor Major Component Part Damage.** For the purpose of determining major component part damage that requires repair or replacement on salvage vehicles, an inspector may disregard minor damage to cosmetic exterior trim and sheet metal body panels that do not affect the structural integrity of the vehicle. However, every vehicle damaged to the extent that a salvage certificate is required must receive a "reconstructed vehicle" or "repaired vehicle" decal and title brand.~~ ~~(11-1-94)~~

10. Salvage Vehicle Age Determination. The age of a salvage vehicle shall be determined by subtracting the model year of the vehicle from the year the damaged vehicle was declared salvage, as evidenced by the salvage certificate, salvage bill of sale, or other documentation showing evidence that the vehicle has been declared salvage. A vehicle may not age out of the salvage vehicle process, regardless of the date of inspection or application. ~~(11-1-94)~~

~~**11. Applicable Salvage Law, Rules and Procedures Determination.** The salvage law, rules and procedures in effect at the time a vehicle was declared salvage, shall be applied to the salvage vehicle.~~ ~~(7-1-96)~~

(BREAK IN CONTINUITY OF SECTIONS)

300. GLIDER KITS.

01. Title Application Instructions. (1-1-90)

a. An ~~MC~~ Manufacturer's Certificate of Origin for the glider kit must be submitted with the application for title. ~~(1-1-90)(7-1-06)T~~

b. If the applicant dismantles a vehicle presently titled to the applicant and uses the significant parts with the glider kit, a statement of fact will be prepared, identifying the significant parts by identifying numbers. If the significant parts were purchased separately, a bill of sale or invoice from the new or used parts outlet is required. If the major component parts were

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purchased from a private owner, a bill of sale is required. (1-1-90)

c. If the frame and cab that the parts were stripped from will never be used again, i.e., frame and cab destroyed, not salvageable, the title must be surrendered with the application. If the frame or cab can be used again, the inspector will mark the title “frame only” or “cab only” and note such in the statement of fact. (11-1-94)

d. The vehicle must be completely assembled and meet the requirements of Chapter 9, Title 49, Idaho Code, at the time of inspection. (11-1-94)

02. Assignment of VIN. The VIN will be the number assigned to the kit by the manufacturer. In the absence of such number, the inspector will assign a VIN. (11-1-94)

03. Model Year. The model year will be the year of the kit, determined by priority in the following order: (7-1-90)

a. Seventeen (17) digit VIN year designator; (11-1-94)

b. Designation of model year shown on an approved ~~MCO~~ Manufacturer Certificate of Origin; or ~~(11-1-94)~~(7-1-06)T

c. Written statement from the manufacturer. (11-1-94)

04. Make of Vehicle. The make of the vehicle will be the name of the manufacturer of the glider kit. (1-1-90)

05. Title Branded. The designation “GLIDER KIT VEHICLE” will be branded on the title. (7-1-90)

06. Inspection Fee. The inspector will charge a fee of twenty-five dollars (\$25) for the inspection and preparation of documents. If a VIN assignment is made, the fee required by Section 49-202(2)(i), Idaho Code, will also be charged. (11-1-94)

301. -- 399. (RESERVED).

400. BRANDING.

01. Brand Disclosure. Upon sale by a dealer of any salvage vehicle or branded vehicle or branded certificate of title, disclosure of the vehicle’s salvage or branded status, shall be conspicuously disclosed to the buyer and a record must be maintained by the dealer. Disclosure may be made on a form as provided by the department for a report of sale. The buyer must sign that they have received disclosure of the vehicle brand. Proof of disclosure must be submitted to the department. (7-1-06)T

02. Branding Time Frame. Each branded vehicle and branded certificate of title shall retain that brand throughout the existence of the vehicle regardless of its age or value. (1-1-90)

03. Brands Removed. If any salvage vehicle leaves the state of Idaho with or without

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an Idaho salvage certificate of title, or if the vehicle had a regular Idaho title showing any brand such as "RECONSTRUCTED VEHICLE," "REPAIRED VEHICLE," "SPECIALLY CONSTRUCTED," "GLIDER KIT VEHICLE," or "JUNK ONLY," and/or a physical "RECONSTRUCTED VEHICLE" or "REPAIRED VEHICLE" decal and such vehicle returns to Idaho without any of the aforementioned brands or decals, all inspections and fees will once again be required and the brands and decals will be replaced as required by Idaho Code and this rule.

(7-1-96)

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IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.24 - RULES GOVERNING "GRAY MARKET" VEHICLE REGISTRATION AND TITLING

DOCKET NO. 39-0224-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-507, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed changes clarify the department's requirements regarding proof of legal ownership, enabling the department to require sufficient ownership documentation prior to titling, thereby limiting the department's and the state's liability by reducing the risk associated with titling vehicles imported from another country without the legal ownership documents. This may reduce the risk to owners in other countries as well as U.S. consumers, by preventing the titling potentially stolen vehicles.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 208 through 210.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2006.

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IDAHO TRANSPORTATION DEPARTMENT

Rules Governing Gray Market Vehicle Registration & Titling

Docket No. 39-0224-0601

PENDING RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. This action is authorized pursuant to Section(s) 49-507, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rule-making: The proposed changes clarify the department's requirements regarding proof of legal ownership, enabling the department to require sufficient ownership documentation prior to titling, thereby limiting the department's and the state's liability by reducing the risk associated with titling vehicles imported from another country without the legal ownership documents. This may reduce the risk to owners in other countries as well as U.S. consumers, by preventing the titling potentially stolen vehicles.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Attorney General legal counsel assigned to the Idaho Transportation Department has advised immediate action to close a loophole in the existing administrative code, an action which will reduce department liability and protect the public welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed change is necessary to limit department and state liability and will protect Idaho citizens purchasing previously owned vehicles.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2006.

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IDAHO TRANSPORTATION DEPARTMENT

Rules Governing Gray Market Vehicle Registration & Titling

Docket No. 39-0224-0601

PENDING RULE

DATED this 4th day of August, 2006.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

~~This rule governs the processing and issuance of registration and titling of imported motor vehicles manufactured for sale in a country other than the United States, commonly referred to as “gray market” vehicles. This rule identifies the safety and environmental protection requirements which must be met before Idaho registration and titling.~~ (12-26-90)

01. Title. These rules shall be cited as IDAPA 39.02.24 “Rules Governing ‘Gray Market’ Vehicle Registration And Titling.” (8-1-06)T

02. Scope. This rule governs the processing and issuance of registration and titling of imported motor vehicles manufactured for sale in a country other than the United States, commonly referred to as “gray market” vehicles. This rule identifies the ownership, safety, and environmental protection requirements which must be met before Idaho registration and titling. (8-01-06)T

002. WRITTEN INTERPRETATIONS.

This agency does not rely on written interpretations for these rules. (8-1-06)T

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 04.11.01. “Idaho Rules of Administrative Procedure of the Attorney General.” (8-1-06)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (8-1-06)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (8-1-06)T

02. Office Hours. Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday.

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Sunday and state holidays.

(8-1-06)T

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8663 or by fax at 208-334-8658.

(8-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(8-1-06)T

0027. -- 099. (RESERVED).

100. TITLING AND REGISTRATION REQUIREMENTS.

01. Required Documents. When the owner of a gray market vehicle applies for title and registration, the following documents must be presented.

(12-26-90)

a. Statement indemnifying the Department.

(12-26-90)

b. Statement of Facts from a motor vehicle investigator, unless waived by the department based on facts presented by the owner.

~~(12-26-90)~~(8-1-06)T

c. All documents relating to ownership ~~such as~~ including but not limited to: manufacturer's certificate of origin, manufacturer's statement of origin, foreign title, ~~and/or~~ registration (if the vehicle is not from a titling country), ~~as applicable~~ and bills of sale. A complete chain of ownership must be presented from the manufacturer (for new vehicles) or from the last titled owner, or registered owner (if the vehicle is not from a titling country) to all subsequent owners of the vehicle both in the foreign market and the United States.

~~(12-26-90)~~(8-1-06)T

d. U.S. Department of Transportation release letter.

(12-26-90)

e. Environmental Protection Agency (EPA) release letter or Independent Commercial Importer (ICI) release letter or Designated Canadian Importer (DCI) release letter or EPA letter of waiver.

(12-26-90)

02. Substituted Documents. The U.S. Customs Bond Release Letter may be substituted for all requirements in Subsections 100.01.~~ed.~~ through 100.01.e. ~~(12-26-90)~~(8-1-06)T

03. Designation of Year Model. The year model for titling and registering gray market vehicles will be determined in an order of priority, based on the following criteria:

(12-26-90)

a. The year model used by a specific manufacturer to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced;

(12-26-90)

b. An ownership document issued by that vehicle's country of origin;

(12-26-90)

c. Any vehicle manufactured during a twelve (12) month period beginning

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September 1, and ending August 31, shall bear the production year of the calendar year in which August 31 occurs; or (12-26-90)

d. The year model by certification of the importer of record. The certification can be verified against vehicle production dates, based upon substantially similar models of the same make of vehicle. (12-26-90)

04. Foreign Documents. When foreign manufacturer's certificate of origin, manufacturer's statement of origin, or registration and/or titling documents are presented, a translation of the foreign documents may be required to clarify the information contained in the documents. If required, such translation will be at the owner's expense and certified by the translator as true and correct. ~~(12-26-90)~~(8-1-06)T

05. Registration Only. Until gray market vehicles meet Idaho registration and titling requirements, the county assessor shall issue a registration under the "Registration Only" program to allow time for the federal government to act upon the required releases or for the owner to obtain legal ownership documentation. ~~(12-26-90)~~(8-1-06)T

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.73 - RULES GOVERNING ACCIDENT PREVENTION COURSE

DOCKET NO. 39-0273-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 41-2515 and 49-201, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule-making is necessary for compliance with Idaho Code changes in House Bill 462, effective July 1, 2006, which lowers the age requirement to receive an insurance premium reduction benefit for taking the Accident Prevention Course, from age 65 years or older to age 55 years or older.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 96 and 97.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ed Pemble, Driver Services Manager, 332-7830.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking

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procedures have been initiated. The action is authorized pursuant to Section(s) 41-2515 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is necessary for compliance with Code changes in House Bill 462, effective July 1, 2006, which lowers the age requirement to receive an insurance premium reduction benefit for taking the Accident Prevention Course, from age 65 years or older to age 55 years or older.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with Code changes in House Bill 462, effective July 1, 2006, and conferring a benefit for drivers between the age of 55 years and 65 years.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rule change is in response to legislative action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2006.

DATED this 21st day of June, 2006.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Rules Governing Accident Prevention Course

Docket No. 39-0273-0601
PENDING RULE

P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.73 “Rules Governing Accident Prevention Course,” IDAPA 39, TITLE 02, Chapter 73, (5-3-03)

02. Scope. This rule establishes minimum standards for approval of a motor vehicle accident prevention course ~~for the instruction of motor vehicle operators who are sixty-five (65) years of age or older,~~ as provided in Section 41-2515, Idaho Code. (5-3-03)(7-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

007. -- 0909. (RESERVED).

010. DEFINITIONS.

01. Accident Prevention Course. A structured course of study, either in a traditional classroom setting, field driving or internet based format, with curriculum focusing on becoming a safer driver and avoiding accidents, by being cautious, aware, responsible, and respectful of other drivers while abiding by Idaho’s rules of the road. The terms “accident prevention course” and “defensive driving class” shall be interchangeable, and the course standards established for the accident prevention class in this rule shall be the same standards for the defensive driving class for violation point count reduction as provided in IDAPA 39.02.71, “Rules Governing Driver’s License Violation Point Count System.” (7-1-06)T

011. -- 099. (RESERVED).

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Due to ever increasing traffic volumes in and around certain urban areas during the hours of high-commuter traffic (6:30 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m.), this rule is being modified to restrict over-width permitted vehicles from operating on certain sections of both state and interstate highways in those specified locations. There is a minimal impact to industry since they are already subject to high commuter traffic restrictions on non-interstate state highways.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 98 through 101.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Motor Vehicle Administrator, 334-8809.

DATED this 15th day of November 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2006.

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Overlegal Permittee Responsibility & Travel Restrictions

Docket No. 39-0311-0601
PENDING RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

Due to ever increasing traffic volumes in and around certain urban areas during the hours of high-commuter traffic (6:30 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m.), this rule is being modified to restrict over-width permitted vehicles from operating on certain sections of both state and interstate highways in those specified locations. There is a minimal impact to industry since they are already subject to high commuter traffic restrictions on non-interstate state highways.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Restricting over-width permitted vehicles from operating on certain section of interstate highways during the hours of high-commuter traffic will protect the public safety.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because immediate implementation will protect the public safety of the traveling public by reducing the congestion already occurring on some stretches of interstate highways.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Motor Vehicle Division Administrator, 334-8809.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before August 23,

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Overlegal Permittee Responsibility & Travel Restrictions

Docket No. 39-0311-0601
PENDING RULE

2006.

DATED this 21st day of June, 2006.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. RESPONSIBILITY OF PERMITTEE.

01. General Responsibilities. The permittee shall determine and declare the gross weight, distribution of weight, and the dimensions of the vehicle and load and shall submit all other required information before issuance of the permit. The acceptance of a overlegal permit by the permittee is his agreement that the vehicle and load covered by the permit can and will be moved in compliance with the terms and limitations set forth in the permit. When a permit has been accepted by the permittee, such action shall be deemed an unequivocal assurance that he has complied, or will comply with all operating, licensing, and financial responsibility requirements. (4-5-00)

02. Permit to Be Carried in Vehicle. (1-3-93)

a. The overlegal permit must be carried in the vehicle to which it refers during the time of movement and shall upon demand be delivered for inspection to any peace officer or authorized agent of the Idaho Transportation Board or any officer or employee charged with the care and protection of the public highways. ~~The original ITD-217E annual permit must be carried in the vehicle within sixty (60) days of the date of issue.~~ (4-5-00)(8-1-06)T

b. When the route of the permitted vehicle will not pass in the vicinity of a state operated transceiver station, the applicant may complete Form ITD-217-~~106~~, APPLICATION FOR OVERLEGAL PERMIT NUMBER, and provide pertinent information by telephone to the overlegal permit office. If the overlegal permit office approves the application, a overlegal permit number will be assigned to complete the Form ITD-217-~~106~~. Form ITD-217-~~106~~ will serve as evidence of intent to obtain the overlegal permit and will be honored by law enforcement subject to the officer checking with the overlegal permit office. The applicant must qualify for this procedure by obtaining a permit fee account number. The overlegal permit office will complete the Overlegal Permit Form ITD-217~~6~~ and charge the fee to the applicant's permit fee account number. (IDAPA 39.03.21, "Rules Governing Special Permit Fees," Section 300.) (4-5-00)(8-1-06)T

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03. Certification Load Is Non-Reducible. Upon application, the permittee must certify that steps have been taken to reduce the dimensions and/or weight of vehicle and/or load concerned in the permit to legal limitations, or if that is impractical, to reduce the excess to a minimum. (8-25-94)

04. Basic Limitations Shall Not Be Exceeded. Overlegal permits shall not be issued for vehicles or loads in excess of the maximum limitations of size or weight or which otherwise exceed the limitations for over legal loads as set forth in these rules unless exception is made by the Transportation Board, or as otherwise provided herein. (4-5-00)

05. Movement, Traffic Control Plans, Loading, Parking on State Highways.
(1-3-93)(8-1-06)T

a. The movement of over legal loads shall be made in such a way that the traveled way will remain open ~~at all times to provide for the continuous movement of opposing traffic as often as feasibly possible~~ and to provide for frequent passing of vehicles traveling in the same direction. ~~Over legal vehicles or loads shall be pulled off the traveled way at every suitable location when necessary to relieve any accumulation of traffic behind such over legal vehicle or load.~~ In order to achieve this a traffic control plan is required to be submitted when operating on two (2) lane highways and exceeding the following dimensions: (10-2-89)(8-1-06)T

i. Width exceeds twenty (20) feet. (8-1-06)T

ii. Length exceeds one hundred fifty (150) feet. (8-1-06)T

b. The traffic control plan shall be prepared by a licensed engineer or an American Traffic Safety Services Association (ATSSA) certified traffic control supervisor and include the following information: (8-1-06)T

i. Locations and mileposts of where the vehicle/load can pull over to allow for traffic relief; (8-1-06)T

ii. How pilot cars and traffic control personnel will be utilized; (8-1-06)T

iii. Identification of any railroad tracks being crossed and the emergency contact number for the governing entity; and (8-1-06)T

iv. Procedure for allowing emergency vehicles to navigate around the vehicle/load when necessary. (8-1-06)T

bc. The over legal vehicle shall not be loaded, unloaded or parked, upon any State highway, except for emergencies, without the specific permission or by direction of the Department or policing agency having jurisdiction over such highway. (1-3-92)

101. -- 199. (RESERVED).

200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.

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Oversize loads may be transported on Idaho Highways subject to the following conditions:

(10-2-89)

01. Red-Coded Routes. Daylight travel until 2 p.m. on Friday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (4-5-00)

02. Black-Coded Routes. Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel daylight hours seven (7) days per week. (12-26-90)

03. Interstate. Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel daylight hours, seven (7) days per week. (4-5-00)

04. Additional Restrictions.

(8-25-94)

a. Red-Coded Routes: No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (4-5-00)

b. Black-Coded Routes and Interstate Routes: Loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may not travel after 4:00 p.m. on the day preceding a holiday; travel may be resumed at dawn on the day following the holiday. (4-5-00)

c. The following days are designated as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. (8-25-94)

d. Additional restrictions relating to movement of buildings and houses are listed in IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," Section 400. (4-5-00)

e. Other time of travel restrictions may be noted on the permit due to special circumstances. (8-25-94)

05. Hours Of Darkness. Hours are defined as extending from one-half (1/2) hour after sundown to one-half (1/2) hour before sun rise or at any other time when visibility is restricted to less than five hundred (500) feet. (4-5-00)

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IDAHO TRANSPORTATION DEPARTMENT Overlegal Permittee Responsibility & Travel Restrictions

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06. Heavy Commuter Traffic Restrictions. The movement of oversize permitted vehicles or loads which are in excess of ~~twelve~~ thirteen (123) feet in width, ~~in excess of eighty-five (85) feet in length, or in excess of sixteen (16) feet in height~~ may be prohibited from movement on highways all state and interstate within one (1) mile of the ~~urban~~ city limits of the following cities: Boise, Caldwell, Coeur d'Alene, Eagle, Emmett, Idaho Falls, ~~Lewiston,~~ Meridian, Middleton, Nampa, Pocatello, Star, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Authorized oversize permitted vehicles operating during hours of heavy commuter traffic shall be restricted to the furthest right hand lane. Emergency movement of vehicles/loads responding to imminent hazards to persons or property shall be exempt from the provisions of Section 200. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., ~~11:30 a.m. to 1:30 p.m.~~ and 4 p.m. to 6 p.m. Monday through Friday except as noted under Holiday restrictions. ~~This restriction may not apply to sections of completed Interstate Highway within the above listed cities. Such a restriction of oversize load travel to avoid conflict with heavy commuter traffic volumes shall appear on the face of the permit.~~ Restrictions to the operation of oversize permitted vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. (4-5-00)(8-1-06)T

07. Hazardous Travel Conditions Restrictions. Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. (3-10-05)

08. Delaying Movement. Enforcement personnel responsible for any section of highway may delay movements and carry out enforcement action for violations involving overlegal permit operations. (4-5-00)

09. Map Resources. The Pilot/Escort Vehicle and Travel Time Requirement Map is available at the Idaho Transportation Department Overlegal Permit Office, and Ports of Entry, and District Offices. (4-5-00)

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Rulemaking is necessary for compliance with House Bill 561, effective July 1, 2006. The code changes prohibit the use of single tires on single axles or within groups of axles, except for steering axles, self-steering variable load suspension axles, or unless equipped with wide-base tires fifteen inches wide or greater. Use of the "super-single" tire contributes to more efficient trucking due to the greater distribution of weight which allows more payload per trip and possibly fewer trips, resulting in lower operating costs and reduced emissions.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 102 through 104.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Motor Vehicle Administrator, 334-8809.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Overlegal Permits for Extra-Length Vehicle Combinations

**Docket No. 39-0322-0601
PENDING RULE**

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Temporary rulemaking is necessary for compliance with House Bill 561, effective July 1, 2006. The code changes prohibit the use of single tires on single axles or within groups of axles, except for steering axles, self-steering variable load suspension axles, or unless equipped with wide-base tires fifteen inches wide or greater. Use of the "super single" tire contributes to more efficient trucking due to the lower weight which allows more payload per trip and possibly few trips, resulting in lower operating costs and reduced emissions.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with code changes in House Bill 561, effective July 1, 2006.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is necessary for compliance with changes to Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Motor Vehicle Division Administrator, 334-8809.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2006.

DATED this 30th day of June, 2006.

Linda L. Emry, Management Assistant

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Overlegal Permits for Extra-Length Vehicle Combinations

Docket No. 39-0322-0601
PENDING RULE

Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

200. CONDITIONS AND REQUIREMENTS FOR EXTRA-LENGTH.

Extra-length vehicle combinations shall be subject to the following conditions, limitations, and requirements: (10-2-89)

01. Extra-Length Vehicle Combinations. Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (3-20-04)

02. Routes for Extra-Length Operations. Shall be designated in four (4) categories: (9-4-91)

a. Routes for combinations not exceeding ninety (90) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety (90) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off-track. (3-22-00)

b. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred fifteen (115) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation referred to above. (3-20-04)

c. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). An extra-length combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed by the WHI equation referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. (3-22-00)

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Overlegal Permits for Extra-Length Vehicle Combinations

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PENDING RULE

d. Selected state highway routes (green coded routes) for operation of an extra-length combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. (8-25-94)

03. Power Unit. The power unit of extra-length combinations shall have adequate power and traction to maintain a minimum of fifteen (15) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (10-2-89)

04. Connecting Devices. Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393, which shall be considered to be a part of this rule. (10-2-89)

05. Weather Restrictions. Extreme caution in the operation of an extra length vehicle combination shall be exercised when hazardous conditions such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction. Speed shall be reduced when such conditions exist. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra length vehicle combination can be safely operated. The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable. (8-25-94)

06. Trailer Weight Sequence. In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

07. Operating Restrictions. Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

a. A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

b. Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

c. Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

08. Insurance Requirements. Every combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (8-25-94)

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Overlegal Permits for Extra-Length Vehicle Combinations

Docket No. 39-0322-0601
PENDING RULE

09. Tire Limitations. All axles on extra-length vehicle combinations shall be equipped with four (4) tires except on the steering axle, ~~and on axles which are in tandem axle groups or other multiple axle groups~~ variable load suspension axles (VLS -lift axles), or axles equipped with fifteen (15) inch wide or wider single tires. ~~(8-25-94)~~(7-1-06)T

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

DOCKET NO. 39-0343-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312(3) and 67-5229, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rulemaking is to update the website address, referenced in the rule, which provides more expedient access for all interested parties to the document incorporated by reference in this rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 215 through 217.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Damon Allen, Roadway Design Engineer, 334-8488.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 40-312(3) and 67-

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Rules Governing Utilities on State Highway Right-of-Way

Docket No. 39-0343-0601
PENDING RULE

5229, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rule-making:

This rulemaking is to update the website and district office addresses and zip codes, referenced in the rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This change will confer a benefit by providing more expedient access to the website for all interested parties.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change does not include any information that would require discussion.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Damon Allen, Roadway Design Engineer, 334-8488.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2006.

DATED this 4th day of August, 2006.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Rules Governing Utilities on State Highway Right-of-Way

Docket No. 39-0343-0601
PENDING RULE

3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.

The Idaho Transportation Department incorporates by reference the July 2003 Edition of “Utility Accommodation Policy”. This publication is available for public inspection and copying at the Office of the Utilities/Railroad Engineer at the Idaho Transportation Department central office, or the District offices, or the Idaho Transportation Department WEB site ~~<http://www2.state.id.us/itd/index.htm>~~ http://itd.idaho.gov/design/util_rail/policies.htm. ~~(3-20-04)(7-1-06)T~~

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (3-20-04)

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (3-20-04)

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-332-7894 or by fax at 208-334-8025. (3-20-04)

04. Idaho Transportation Department District Offices are at the following locations: (3-20-04)

- a. Idaho Transportation Department District 1
600 W. Prairie, Coeur d’Alene
Mailing address -- ~~P.O. Box D~~ 600 W. Prairie
Coeur d’Alene, Idaho 83814-8764
Office Hours -- 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone -- (208) 772-1200 ~~(3-20-04)(7-1-06)T~~
- b. Idaho Transportation Department District 2
2600 North and South Highway, Lewiston
Mailing address -- P.O. Box 837
Lewiston, Idaho 83501-0837
Office Hours -- 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone -- (208) 799-5090 ~~(3-20-04)(7-1-06)T~~
- c. Idaho Transportation Department District 3

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Rules Governing Utilities on State Highway Right-of-Way**Docket No. 39-0343-0601**
PENDING RULE

8150 Chinden Blvd., Boise
Mailing address -- P.O. Box 8028
Boise, Idaho 83707-2028
Office Hours -- 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone -- (208) 334-8300

~~(3-20-04)~~(7-1-06)T

- d.** Idaho Transportation Department District 4
216 Date Street, Shoshone
Mailing address -- P.O. Box 2-A
Shoshone, Idaho 83352-0820
Office Hours -- 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone -- (208) 886-7800

~~(3-20-04)~~(7-1-06)T

- e.** Idaho Transportation Department District 5
5151 South 5th, Pocatello
Mailing address -- P.O. Box 4700
Pocatello, Idaho 83204-4700
Office Hours -- 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone -- (208) 239-3300

~~(3-20-04)~~(7-1-06)T

- f.** Idaho Transportation Department District 6
206 North Yellowstone, Rigby
Mailing address -- P.O. Box 97
Rigby, Idaho 83442-0097
Office Hours -- 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone -- (208) 745-7781

~~(3-20-04)~~(7-1-06)T

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY

DOCKET NO. 39-0345-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-335a, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In the 2005 legislative session, Senate Bill 1083 amended Section 58-335A, Idaho Code, to allow local government entities to acquire surplus ITD property, for other than transportation purposes, at a negotiated price, up to the appraised value, expressly for public purposes, with sales proceeds to the State Highway Account.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 526 through 529.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Leonard Hill, Right-of-Way Manager, 334-8520.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0601
PENDING RULE

hereby given that this agency has adopted a temporary rule, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 58-335A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rule-making:

In the 2005 legislative session, Senate Bill 1083 amended Section 58-335A, Idaho Code, to allow local government entities to acquire surplus ITD property, for other than transportation purposes, at a negotiated price, up to the appraised value, expressly for public purposes, with sales proceeds to the State Highway Account.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with Senate Bill 1083, enacted effective July 1, 2005.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule-making is necessary for compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Leonard Hill, Right-of-Way Manager, 334-8520.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006.

Linda L. Emry, Management Assistant
Budget, Policy, and Intergovernmental Relations
Idaho Transportation Department

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0601
PENDING RULE

3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone - 208-334-8810
FAX - 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.03.45 “Rules Governing Sale of No Longer Useful or Usable Real Property,” IDAPA 39, Title 03, Chapter 45. (9-1-06)T

02. Scope. This rule ~~establishes a process~~ contains guidelines for selling no longer useful or usable real property under the ownership and control of the Idaho Transportation Department. (7-1-97)(9-1-06)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (9-1-06)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the provisions of IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (9-1-06)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (9-1-06)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. (9-1-06)T

02. Office Hours. Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (9-1-06)T

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (9-1-06)T

04. Idaho Transportation Department District Offices are at the following locations:(9-1-06)T

- a.** Idaho Transportation Department District 1
Mailing address - 600 W. Prairie
Coeur d’Alene, Idaho 83815-8764

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0601
PENDING RULE

Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone - (208) 772-1200

(9-1-06)T

- b.** Idaho Transportation Department District 2
2600 Frontage Road, Lewiston
Mailing address - P.O. Box 837
Lewiston, Idaho 83501-0837

Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone - (208) 799-5090

(9-1-06)T

- c.** Idaho Transportation Department District 3
8150 Chinden Blvd., Boise
Mailing address - P.O. Box 8028
Boise, Idaho 83707-2028

Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 334-8300

(9-1-06)T

- d.** Idaho Transportation Department District 4
216 Date Street, Shoshone
Mailing address - P.O. Box 2-A
Shoshone, Idaho 83352-0820

Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 886-7800

(9-1-06)T

- e.** Idaho Transportation Department District 5
5151 South 5th, Pocatello
Mailing address - P.O. Box 4700
Pocatello, Idaho 83205-4700

Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 239-3300

(9-1-06)T

- f.** Idaho Transportation Department District 6
206 North Yellowstone, Rigby
Mailing address - P.O. Box 97
Rigby, Idaho 83442-0097

Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 745-7781

(9-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code.

(9-1-06)T

007. -- 009. (RESERVED).

010. DEFINITION.

01. Surplus Real Property. Real property and the improvements thereon under the ownership and control of the Idaho Transportation Department outside the right-of-way limits

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0601
PENDING RULE

which the Chief ~~of Highway Operations~~ Engineer or his designee declares no longer useful or usable by the department. ~~(7-1-97)~~(9-1-06)T

- 02. **Real Property.** Real property and improvements within the Right-of-Way limits. (7-1-97)
- 03. **Appraisal.** An opinion of value formulated by a licensed Appraiser. (7-1-97)
- 04. **Surplus Property Value Estimate.** An estimate of value for surplus real properties valued at ten thousand dollars (\$10,000) or less formulated by the Idaho Transportation Department or its agents. (7-1-97)
- 05. **Public Sale.** Public auction or sealed bid. (7-1-97)
- 06. **Administrative Fee.** A fee determined by the Department to include direct sale expenses. (7-1-97)
- 07. **Department.** Idaho Transportation Department. (7-1-97)
- 08. **District.** Individually or collectively the jurisdictional areas of the department. (7-1-97)
- 09. **Agent.** Any individual, firm, partnership, or corporation that has contracted with the Department to express an opinion of value on surplus real property owned by the Department. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

200. COVERED PROPERTY.

Based upon recommendations by the District Engineer and concurrence of the Materials, Planning, ~~Maintenance, Traffic~~ Highway Operations and Safety and/or interested headquarter sections, property no longer useful or usable for the needs of the Department is recommended for disposal. ~~(7-1-97)~~(9-1-06)T

(BREAK IN CONTINUITY OF SECTIONS)

301. METHOD OF SALE FOR PROPERTY VALUED AT LESS THAN TEN THOUSAND DOLLARS.

~~The department shall offer the property for sale at an amount not less than the Surplus Property Value Estimate. The~~ Property shall first be offered to ~~all adjoining~~ contiguous property owners. If more than one (1) ~~adjoining~~ contiguous property owner is interested in the property, a private

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT Sale of No Longer Useful or Usable Real Property

Docket No. 39-0345-0601
PENDING RULE

auction will be held between ~~the adjacent~~ those contiguous owners wishing to purchase the property. ~~If the property is not purchased by an adjacent owner, it shall be offered at public sale.~~ It shall be offered at an amount not less than the value estimate or appraisal. The sales price shall include any administrative fees established by the department. Term sales of up to five (5) years may be offered at the discretion of the department. ~~If the property is not purchased by a contiguous owner, it shall be offered to public entities in the manner and in accordance with the priority set out in Section 302.~~ (7-1-97)(9-1-06)T

302. ~~METHOD OF SALE FOR PROPERTY VALUED AT TEN THOUSAND DOLLARS OR GREATER~~ SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES AT THE APPRAISED VALUE.

The department shall first offer the property for sale or exchange at the appraised ~~price~~ value to the following: state agencies, the county ~~and~~ in which the property is located, the city ~~where~~ in which the property is located, the highway district in which the property is located. ~~The~~ State agencies are given first priority to ~~purchase~~ acquire the property, county second, city third and highway district fourth. ~~If none of the above public agencies purchase the property, it will be offered at public sale.~~ Other tax supported entities not enumerated will not specifically be notified, but will have the fifth priority to purchase the property. The sales price shall include any administrative fees established by the department. ~~Term sales of up to twenty (20) years may be offered at the discretion of the department.~~ (7-1-97)(9-1-06)T

303. SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES FOR LESS THAN THE APPRAISED VALUE.

If none of the public agencies referenced in Section 302 wishes to purchase the property at the appraised value, the department may negotiate a sale or exchange of the property at less than the fair market value to any tax-supported agency or political subdivision of the state of Idaho, excluding state agencies, in whose jurisdiction the property resides. The priority and process set out in Section 302 shall apply; except that the order of priorities shall not include state agencies. The first priority will be given to counties, the second to cities, the third to highway districts and fourth to other tax supported entities. If property is sold or exchanged for less than the fair market value it must be used exclusively and in perpetuity for a public purpose. The specific public use will be set out in the deed of transfer and if the use is violated or discontinued the property will revert to the ownership of the department. If jurisdiction, value or use cannot be agreed upon between the department and a public agency the property will be offered at a public sale in accordance with the provisions of Section 304. Any surplus department property originally purchased using federal funds must receive the approval of the Federal Highway Administration prior to being sold or exchanged for less than the appraised value. (9-1-06)T

304. METHOD OF SALE FOR PROPERTY NOT PURCHASED BY A PUBLIC ENTITY OR A CONTIGUOUS PROPERTY OWNER.

If no public agency purchases a property offered for sale, or if property appraised under ten thousand dollars (\$10,000) is not purchased by a contiguous property owner or by a public agency, the surplus property will be offered at public sale for not less than the appraised price. The sales price shall include any administrative fees established by the department. Term sales of up to twenty (20) years (five (5) years if the property is purchased for less than ten thousand dollars (\$10,000)) may be offered at the discretion of the department. (9-1-06)T

3035. -- 399. (RESERVED).

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.04.07 - RULES GOVERNING AERIAL SEARCH AND RESCUE OF LOST AIRCRAFT AND AIRMEN

DOCKET NO. 39-0407-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 21-111, 21-114, and 21-142, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The 2005 Legislature amended Section 21-114, Idaho Code, Registration of Pilots and Aircraft, and Section 46-1006, Idaho Code, Powers and Duties of Chief and Bureau, by placing the coordination of search and rescue under the direction and supervision of the Chief of the Bureau of Homeland Security while requiring aerial search and rescue operations be coordinated by the Idaho Transportation Department, Division of Aeronautics. Those changes are reflected in this rule-making.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 534 through 538.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Frank Lester, Aeronautics Safety/Education Coordinator, 334-8780.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Aerial Search & Rescue of Lost Aircraft & Airmen**Docket No. 39-0407-0601**
PENDING RULE

this agency has proposed rulemaking procedures. The action is authorized pursuant to Section(s) 21-111, 21-114, and 21-142, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The 2005 Legislature amended Section 21-114, Idaho Code, Registration of Pilots and Aircraft, and Section 46-1006, Idaho Code, Powers and Duties of Chief and Bureau, by placing the coordination of search and rescue under the direction and supervision of the Chief of the Bureau of Homeland Security while requiring aerial search and rescue operations be coordinated by the Idaho Transportation Department, Division of Aeronautics.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ((\$10,000)) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule-making is necessary for compliance with Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bob Martin, Aeronautics Division Administrator, 334-8788.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street - PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

HOUSE TRANSPORTATION & DEFENSE COMMITTEE

IDAHO TRANSPORTATION DEPARTMENT
Aerial Search & Rescue of Lost Aircraft & Airmen

Docket No. 39-0407-0601
PENDING RULE

000. LEGAL AUTHORITY.

Pursuant to Section 21-142(16), Idaho Code, The Idaho Transportation Board has promulgated adopted this rule concerning search and rescue of lost aircraft and airmen as required by under the authority of Sections 21-114, and 21-142, Idaho Code. This rule is based on the concept of providing humanitarian relief so that others may live. (11-28-90)()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.04.07 “Rules Governing Aerial Search and Rescue of Lost Aircraft and Airmen”. ()

02. Scope. This rule establishes standards and criteria for the department’s role in the coordination of aerial operations under the oversight of the Bureau of Homeland Security, per Sections 46-1006 and 46-1009, Idaho Code. ()

01a. Department Authority. As applied to the ~~Department of~~ Idaho Transportation Department, Section 21-114, Idaho Code, provides coordination of operations for aerial search and rescue. As applied to the Military Division, Bureau of Homeland Security (BHS), Sections 46-1006 and 46-1009, Idaho Code, provides for the direction and supervision of search and rescue under the Bureau Chief of BHS, per Section 21-114, Idaho Code. Federal-state agreements (ARRS Operation Plan 9506), Interstate agreements, the National Search and Rescue Plan (AFM 64-2), and the President’s policy to provide for effective search and rescue throughout the world, are the basis of the Department of Transportation responsibility and authority for aerial search and rescue operations of lost aircraft and airmen. Section 21-118, Idaho Code, directs other state agencies and municipalities to make available their facilities and services. Section 21-119, Idaho Code, establishes the responsibility of the Department to enforce the Aeronautics Act, rules, regulations, and orders. (1-2-93)()

02b. Department Responsibility. The department will control, ~~coordinate, and supervise~~ aerial search and rescue operations for lost and overdue civil aircraft and airmen on intrastate flights, portions of interstate flights in and over Idaho, and may assist the Air Force Rescue Coordination Center (AFRCC) in search and rescue efforts for military, public, and commercial air carrier aircraft in and over Idaho. Search and rescue coordination shall be under the direction and supervision of the Bureau Chief of the Bureau of Homeland Security. (1-2-93)()

03c. Search and Rescue Agreements. The department shall formulate search and rescue agreements and search and rescue plans in support of the Idaho aerial search and rescue mission responsibility as necessary or which may become necessary. (11-28-90)()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the provisions of IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

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004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ()

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. ()

02. Office Hours. Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. ()

03. Telephone and FAX Numbers. The aeronautics division office may be contacted during office hours by phone at 208-334-8775 or by fax at 208-334-8789. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Aerial Search and Rescue Funding. A dedicated source defined in Section 21-114, Idaho Code, derived from airman registration fees. (11-28-90)

02. Aerial Search and Rescue Volunteer. One who volunteers services for humanitarian relief. When accepted in support of SAR missions, SAR volunteer shall become quasi-state employee and be protected by state workman's compensation insurance. (11-28-90)

03. Aerial Search and Rescue Volunteer Aircraft. A civil aircraft voluntarily made available to be used in aerial search and rescue operations. (11-28-90)

04. Aerial Search and Rescue Volunteer Pilot/Observer. A pilot/observer qualified in accordance with the Idaho Transportation Department Aerial Search and Rescue Manual. (11-28-90)

05. AFRCC. Air Force Rescue Coordination Center, the single agency through which federal SAR missions will be prosecuted and federal assistance requested for SAR in the inland region. It is a coordinating agency only. (11-28-90)

06. Airman/Airmen. Any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while underway. For the purpose of this regulation, search shall be conducted for airmen and passenger(s) of lost aircraft. (11-28-90)

07. ARRS. Aerospace Rescue and Recovery Service. (11-28-90)

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- 08. Board.** Idaho Transportation Board. (11-28-90)
- 09. Bureau of Homeland Security (BHS).** State agency in charge of preparing for and/or providing assistance during and after natural or man-made disasters. ()
- ~~09~~**10. Civil Aircraft.** Aircraft other than public aircraft. (11-28-90)
- 101. Department.** Idaho Transportation Department. (11-28-90)
- 112. Director.** Director of the Idaho Transportation Department. (11-28-90)
- 123. District Aerial Search and Rescue Coordinator.** A designated representative of the State Search and Rescue Coordinator. (11-28-90)
- 134. National Search and Rescue Manual.** That manual for guidance of U.S. Federal Forces, military or civil, participating in search and rescue (SAR) operations. (7-1-97)
- 145. National Search and Rescue (SAR) Plan.** Aerospace Rescue and recovery Service Operations Plan Number 9506, entitled, "Inland Search and Rescue". It coordinates the SAR efforts among the states and federal agencies. (11-28-90)
- 156. SAR.** A commonly used abbreviation for search and rescue. (11-28-90)
- 167. Search and Rescue.** (SAR) (11-28-90)
- a.** Search - An investigative act to determine the location of lost aircraft or airman. (7-1-97)
- b.** Rescue - Deliver from danger, to save. (11-28-90)
- 178. Search and Rescue Agreements.** SAR agreements involving federal, state, local, and private agencies, and/or individual(s). (11-28-90)
- 189. Search Base(s).** Those locations designated by the state aerial search and rescue coordinator as primary operating location(s) from which a search effort will be conducted. (7-1-97)
- ~~192~~**20. Search Districts.** Those six (6) areas throughout the State which are designated as aerial search and rescue districts by the Idaho aerial search and rescue plan. These areas are the same as the states six (6) highway districts. (7-1-97)
- 201. State.** State of Idaho. (11-28-90)
- 212. State Aerial Search and Rescue Coordinator.** Director, Idaho Transportation Department, or his duly appointed representative, responsible for directing, coordinating and supervising all phases of aerial search and rescue operations. (11-28-90)

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223. **State Aerial Search and Rescue Plan.** Those plans, policies, and procedures set forth in the Department Aerial Search and Rescue Manual. (11-28-90)

(BREAK IN CONTINUITY OF SECTIONS)

101. SEARCH INITIATION.

When notification is received from agencies, or individual(s) which constitute reasonable probability that an aircraft or airman is down, lost, or missing, a search shall be initiated as described in the National SAR Plan, the Idaho Transportation Department SAR Manual and/or ~~the discretion of the Department~~ upon mutual agreement between the department and the BHS. Safety, weather, darkness, and other operational factors may influence the conduct of the search including time of initiation, duration, and suspension. (11-28-90)(____)

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURE.

01. Search and Rescue Guideline. The Idaho Transportation Department Aerial Search and Rescue Manual (Plan) shall provide guidelines for effectively conducting aerial search and rescue operations. It shall establish requirements for crew qualification, adequacy of volunteer search aircraft performance, and District Aerial SAR Coordinator qualifications. In order to effectively implement the State SAR Plan, the State Aerial SAR Coordinator may make SAR agreements as necessary with other agencies/organization(s)/individual(s). They may be either informal verbal agreements or they may be formal written documents. Agreements shall provide for the maximum practicable cooperation of such agencies/organization(s)/individual(s) and the use and coordination of facilities committed to SAR missions. Written agreements will normally involve officials of comparable levels in their respective agencies. Written agreements should be as brief as possible, covering only those specific items for which the agreement is deemed necessary. They should not be repetitious or contradictory of matters contained in the National SAR Plan. (7-1-97)

02. District Aerial SAR Coordinators. The State Aerial SAR Coordinator shall assign District Aerial SAR Coordinators who act under the direction of the State Aerial SAR Coordinator, organizing the volunteer personnel and resources of his assigned search district area for maximum efficiency, safety, and economy. Said District Coordinator may be either a volunteer, state employee or other individual as assigned by the State Aerial SAR Coordinator. (7-1-97)

03. Designations by State Aerial SAR Coordinators. The State Aerial SAR Coordinator will designate airports of primary operational support as necessary in the aerial search effort. The State Aerial SAR Coordinator may designate Temporary Flight Restrictions (TFR) under Federal Aviation Regulation (FAR) 91.137 as required for safety of search aircraft. Normally the State Aerial SAR Coordinator will function in the Division of Aeronautics facilities but the option to dispatch state coordinator to the airport(s) of primary support, State EOC, or

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other location as necessary, may be exercised. State Division of Aeronautics aircraft may be used as necessary with state crews or with state pilot in command and volunteer pilot/observer(s). Volunteer aircraft and crews shall be screened by the District Aerial SAR Coordinator for availability, qualification, and willingness to participate in the search. Flight logs and mission records shall be maintained and all pertinent information shall be screened and recorded and forwarded to the State Aerial SAR Coordinator at the close of the mission or as requested.

(1-2-93)

04. Interstate Coordination. On some occasions the aerial search and rescue effort may need to extend into bordering states or Canada. Interstate coordination with other states/Canada shall be achieved as necessary by the Department for SAR mission needs. Coordination with other search and rescue organization(s)/ individual(s) may be developed as needed or necessary. Such considerations as weather, time, no flight plan, no emergency locator transmitter signals, ~~no~~ availability, or limited search resources near the objective search area(s) may dictate extending Idaho resources into bordering states/Canada. In a like manner, it may sometime become necessary for bordering states/Canada to extend their resources into Idaho. ~~(7-1-97)~~(____)

05. Funds. Aerial search and rescue funds shall be used solely in support of aerial SAR efforts. Financial support of aerial SAR volunteers shall include but not be limited to SAR training, education, equipment, coordinating efforts, communications, and aircraft fuel and oil expenses.

(11-28-90)

06. Official Mission Report. A report shall be made to the State Aerial SAR Coordinator by the District Aerial SAR Coordinator at the termination of daily search activity. The State Aerial Coordinator SAR shall consolidate all necessary report information and relay it to AFRCC. All mission working papers which are accumulated during the course of the search mission will be analyzed for meaningful content upon which to base operational decisions and the final official mission report.

(11-28-90)

07. Time Period of Searches. Aerial searches shall be continued until either successful or until all reasonable leads are exhausted and/or passage of time has drastically reduced the possibility of survival. If search is unsuccessful and all leads have been exhausted, the search may be suspended ~~by the Director upon mutual agreement between the department and the BHS~~ until either new leads are received or conditions have changed which increases the probability of detection.

~~(7-1-97)~~(____)

08. Completion of Search. Searches will be closed when the search and rescue objective has been located, the respective county sheriff notified, it is certain that authorized ground personnel gain access to the search objective for positive identification of missing or downed aircraft and assistance to possible survivors, and post mission procedures are completed.

(11-28-90)

09. Required Reports. Upon completion of the mission, all cooperating/participating agencies shall be advised as promptly as possible. News releases shall be made as deemed appropriate by the State Aerial SAR Coordinator. It shall be ascertained that all search aircraft are accounted for. A report of mission activity shall be made to AFRCC. A synopsis of the entire mission shall be developed by the State Aerial SAR Coordinator. The following forms shall be attached to the synopsis:

(11-28-90)

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- a. Search and Rescue Information Sheet (~~APT-2600~~). ~~(11-28-90)~~(____)
 - b. Search ~~Aircraft Operations Log~~ and Rescue Action Report (~~APT-26031~~). ~~(11-28-90)~~(____)
 - c. Air Search and Rescue Fuel and Oil Record (~~APT-2602~~). ~~(11-28-90)~~(____)
 - d. Mission Authorization, Personnel Register (~~APT-2604~~). ~~(11-28-90)~~(____)
 - e. Mission Flight Plan Briefing and Debriefing Log (2605) (____)
 - ef. Search and Rescue (SAR) Mission Report (~~APT-2606A~~). ~~(11-28-90)~~(____)
- 10. Final Report.** The synopsis and attachments shall constitute the final official search and rescue mission report. (11-28-90)